

OPINION
58-230

September 17, 1958 (OPINION)

OFFICES AND OFFICERS

RE: Notaries Public - Can Act Officially Anywhere in State

On July 21, 1948, a letter was sent to your office in which it was stated that a notary public should designate the county in which he is registered with the office of the clerk of the district court under section 44-0604 of the North Dakota Revised Code of 1943. According to subsection 2 of this statute, filing is for the purpose of enabling the clerk to certify that the person complying with the provisions of the subsection is a notary public during the time the commission is in force.

Your specific question is whether a document may be refused acceptance for recording where the notary public signs as of a different county than that in which he is registered.

Section 44-0601 of the North Dakota Revised Code of 1943 states that a notary public has authority to act in his official capacity anywhere in the state. Section 44-0604 of the Code also provides that the notary must be registered in the office of the Secretary of State. Therefore, whether he is actually a notary public during the time which he purports to be may be ascertained through that office.

There is no specific statute in the Code which requires the notary to designate the county in which he is registered on his official notary public signature, nor is there any requirement that the county appear on his official seal. There is authority that the absence of the name of the county is not a defect in the acknowledgment. Section 98, Acknowledgments, American Jurisprudence, Section 16, Affidavits, American Jurisprudence.

Therefore, in view of the fact: (1) That a notary may act anywhere within the state; (2) that authority to act as a notary public may be determined through the Secretary of State's office; (3) that there is no specific statute requiring a notary public to designate the county in which he is registered, it is the opinion of this office that a document is properly acknowledged although the notary public signs as of a different county than that in which he is registered, and must be accepted for recording.

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Attorney General